

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FORT SMITH DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

v.

No. 2:19-cr-20039

CECIL GABY

DEFENDANT

**OPINION AND ORDER**

The Court has received a report and recommendation (“R&R”) (Doc. 46) from United States Magistrate Judge Christy D. Comstock. The Magistrate Judge recommends denying Defendant Cecil Gaby’s motion to vacate under 28 U.S.C. § 2255 (Doc. 31) because his claim is procedurally defaulted due to his failure to file a direct appeal. The Magistrate Judge also recommends denying the motion because it is without merit. The Court granted Mr. Gaby’s request for an extension to file objections to the R&R. *See* Doc. 49. However, over a month has passed since Mr. Gaby’s extended deadline, and he has not filed objections. Nevertheless, the Court has conducted a *de novo* review of the R&R. *See* 28 U.S.C. § 636(b)(1)(C). The Magistrate Judge’s findings contain no clear error, and the R&R is ADOPTED IN ITS ENTIRETY.

IT IS THEREFORE ORDERED that Mr. Gaby’s motion to vacate under 28 U.S.C. § 2255 (Doc. 31) is DISMISSED WITH PREJUDICE. No certificate of appealability shall issue. Judgment will be entered accordingly.

IT IS SO ORDERED this 11th day of April, 2024.

/s/ P. K. Holmes, III

P.K. HOLMES, III  
U.S. DISTRICT JUDGE